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| 10/613,383 | 07/03/2003 | Hartono Liman | PA2229US | 7217 |
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| CARR & FERRELL LLP 2200 GENG ROAD PALO ALTO, CA 94303 | | | FLYNN, KEVIN H | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/613,383 | Applicant(s) LIMAN, HARTONO | |
| | Examiner KEVIN FLYNN | Art Unit 3628 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2008 and 21 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,8-12,14-16 and 18-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,8-12,14-16 and 18-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the amendment filed on 28 February 2008, and the response to a 37 CFR § 1.105 request filed on 21 July 2008.
2. Claims 1, 8, 15, 16, 20, 21 have been amended.
3. Claims 1-4, 6, 8-12, 14-16, 18-30 are currently pending and have been examined.

Continued Examination Under 37 CFR 1.114

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 February 2008 has been entered.

Response to Requirement for Information

5. Applicant, in response to a requirement for information mailed May 28, 2008, supplied a brochure of a system in use at the time the application was filed. Applicant has asserted that Applicant is unaware of any further material information regarding the instant invention. Examiner thanks Applicant for supplying this information and fulfilling this requirement.

Response to Arguments

6. In Applicant's response filed 28 February 2008, Applicant argues, *inter alia*, that the references, alone or in combination, do not teach allowing a reservation "if a reservation request is **both** for less than or equal to the maximum inventory allotment for the tier associated with a requesting user **and** is for less than or equal to the total inventory available" as now presented in the claims

(emphasis by Applicant). However, in light of the amendment, Examiner now points to Kerr et al. (US 5,404,291), which discloses, *inter alia*, allowing a reservation only if total inventory is greater than the reservation and the particular category inventory is greater than the reservation (col. 5, lines 17-24; Fig. 2, 42-"Check general availability"). In addition, see the updated rejection below.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1-4, 6, 21-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-4, 6, 21-29 are directed to a "system", however the body of the claim recites a database and engines, which, although not defined within the specification, would have been known by one of ordinary skill in the art to be performed by software. Functional descriptive material such as a computer program must be structurally and functionally interrelated with a medium to allow its intended uses to be realized. Accordingly, claims directed to software *per se* are not statutory subject matter. *In re Warmerdam*, 33 F.3d 1354, 1361, 31 USPQ2d 1754, 1760 (Fed. Cir. 1994). See MPEP § 2106.01 for further guidance and discussion on computer-related nonstatutory subject matter.
9. Claims 8-12, 14, 16, 18-19, 30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 8-12, 14, 16, 18-19, 30 are directed to a series of steps. In order for a series of steps to be considered a proper process under § 101, a claimed process should either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). Thus, to qualify as patent eligible, these processes must positively recite the other statutory class to which it is tied (e.g., by identifying the apparatus that accomplishes the method steps), or positively recite the subject matter that is being transformed (e.g., by identifying the

product or material that is changed to a different state). Claims 8-12, 14, 16, 18-19, 30 identify neither the apparatus performing the recited steps nor any transformation of underlying materials, and accordingly are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Examiner's Note: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

11. Claims 1-4, 6, 8-10, 14-16, 18-26, 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr et al. (US 5,404,291) in view of Walker et al. (US 6,085,169) in view of in view of Norrid (US 2003/0061145 A1).

Claim 1:

Kerr, as shown, discloses the following limitation(s):

- *whereby a total of the maximum inventory allotments for all tiers in a single inventory category is greater than a total inventory available for the single inventory category* (Kerr col. 4, lines 6-15);
and

Regarding the limitation:

- *an allotment database for storing maximum inventory allotments corresponding to inventory categories for each tier* (Kerr col. 3, line 65- col. 4, lines 3),

Kerr, in at least col. 3, line 65- col. 4, lines 3, discloses inventory allotments and a relationship, to the inventory categories. In addition, Walker, in at least Fig. 14, and col. 18, lines 17-34, discloses the storing the maximum inventory corresponding to inventory categories within each tier. It would have been obvious to ordinary skill in the art at the time of the invention to combine the method of using inventory allotments and categories with the technique of relating them to tiers so "that the reservations-manager does not need to make a specific, rigid allocation of rooms by physical room-type to a rate-category" (Kerr col. 4, lines 12-15).

Kerr and Norrid disclose the following limitation:

- *an allotment engine configured for monitoring the maximum inventory allotments for each tier and the total inventory available for each inventory category (Norrid ¶ 0057 "a limit to the number of rooms available at each rate may be imposed"), and configured to allow a reservation for a particular inventory category if a reservation request is both for less than or equal to the maximum inventory allotment for the tier associated with a requesting user and is for less than or equal to the total inventory available (Kerr col. 5, lines 17-24; Fig. 2, 42-"Check general availability").*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of having inventory and pricing tiers with the technique of monitoring the allotments of the pricing tiers and inventory because it "may allow for increasing or decreasing rates as sales are received from each booking party" (Norrid ¶ 0057).

Claim 2:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 1. In addition, Kerr also discloses the following limitation(s):

- *wherein the inventory is hotel rooms and the inventory categories are hotel room categories (Kerr col. 5, line 23 "inventory available for this room-type").*

Claim 3:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 1. In addition, Kerr also discloses the following limitation(s):

- *an availability database for storing the total inventory available* (Kerr col. 5, line 25).

Claim 4:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 1. In addition, Kerr also discloses the following limitation(s):

- *a registration engine for verifying registered users and directing the registered user to their assigned tier* (Norrid ¶ 0051 showing a registered user database; ¶ 0073 showing direction to an appropriate website).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of using pricing tiers with the technique ensuring users are directed to their particular tier to ensure the ability of “a hotel to maintain its own records of rates” (Norrid ¶ 0026)

Claim 6:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 1. Regarding the limitation:

- *at least one database comprising a plurality of rates wherein each of the plurality of rates corresponds to a different inventory category and tier* (Walker Fig. 13, col. 13, lines 1-3; see also Kerr col. 3, lines 26-30).

Kerr, in at least col. 3, lines 26-30, discloses a plurality of rates, but does not specifically disclose how they correspond to different inventory categories and tiers. However, Walker, in at least Fig. 13, col. 13, lines 1-3, does. It would have been obvious to ordinary skill in the art at the time of the invention to combine the method of using inventory allotments and categories with the technique of relating them to tiers so “that the reservations-manager does not need to make a specific, rigid allocation of rooms by physical room-type to a rate-category” (Kerr col. 4, lines 12-15).

Claim 8 and 15:

Kerr, as shown, discloses the following limitation(s):

- *whereby a total of the maximum inventory allotments for all tiers in a single inventory category is greater than a total inventory available for the single inventory category* (Kerr col. 4, lines 6-15),;
- *comparing the reservation request with the total inventory available for the particular inventory category* (Kerr col. 5, lines 17-24; Fig. 2, 42-“Check general availability”); and
- *fulfilling the reservation request for the particular inventory category if the reservation request is both for less than or equal to the maximum inventory allotment for the tier and for less than or equal to the total inventory available* (Kerr col. 5, lines 17-24; Fig. 2, 42-“Check general availability”).

Regarding the limitation:

- *assigning a maximum inventory allotment for each inventory category to each tier.*

Kerr, in at least col. 3, line 65- col. 4, lines 3, discloses inventory allotments and a relationship, to the inventory categories. In addition, Walker, in at least Fig. 14, and col. 18, lines 17-34, discloses the storing the maximum inventory corresponding to inventory categories within each tier. It would have been obvious to ordinary skill in the art at the time of the invention to combine the method of using inventory allotments and categories with the technique of relating them to tiers so “that the reservations-manager does not need to make a specific, rigid allocation of rooms by physical room-type to a rate-category” (Kerr col. 4, lines 12-15).

Regarding the limitation:

- *comparing the reservation request for a particular inventory category from a member of a tier with the maximum inventory allotment corresponding to the particular inventory category for the tier* (Norrid ¶ 0057 “a limit to the number of rooms available at each rate may be imposed”);

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of having inventory and pricing tiers with the technique of monitoring the allotments of the pricing tiers and inventory because it “may allow for increasing or decreasing rates as sales are received from each booking party” (Norrid ¶ 0057).

Claim 9:

See above rejection regarding claims 8 and 2.

Claim 10:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 8. In addition, Walker discloses the limitation:

- *updating the total inventory available after fulfilling the reservation* (Walker col. 18, lines 20-23).

It would have been obvious to combine the method of monitoring reservations with the technique of updating the total inventory after fulfilling a reservation in order to prevent “over-selling” (Kerr col. 2, line 26).

Claim 14:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 8. Regarding the limitation:

- *charging the member a rate corresponding to the member's tier for the particular inventory category.*

Kerr, in at least col. 3, lines 26-30, discloses a plurality of rates, but does not specifically disclose how they correspond to different inventory categories and tiers. However, Walker, in at least Fig. 13, col. 13, lines 1-3, does. It would have been obvious to ordinary skill in the art at the time of the invention to combine the method of using inventory allotments and categories with the technique of relating them to tiers so “that the reservations-manager does not need to make a specific, rigid allocation of rooms by physical room-type to a rate-category” (Kerr col. 4, lines 12-15).

Claim 16 and 20:

See above rejection of claim 8. In addition, Norrid discloses the remaining limitations:

- *establishing a plurality of tiers* (Norrid ¶ 0055) ;
- *assigning each user to one of the plurality of tiers* (Norrid ¶ 0055; Table 1);

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of using pricing tiers with the technique assigning users to their particular tier to ensure the ability of "a hotel to maintain its own records of rates" (Norrid ¶ 0026).

Claim 18:

See above rejection regarding claims 16 and 2.

Claim 19:

See above rejection regarding claims 16 and 6.

Claim 21:

See above rejection regarding claims 16. In addition Norrid discloses the limitation:

- *a user engine configured for organizing the users into a plurality of tiers* (Norrid ¶ 0055; Table 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of using pricing tiers with the technique assigning users to their particular tier to ensure the ability of "a hotel to maintain its own records of rates" (Norrid ¶ 0026).

Claim 22:

See above rejection regarding claims 21 and 2.

Claim 23:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 21. In addition, Kerr discloses the following limitation:

- *wherein the management engine further comprises an allotment engine configured for determining if the reservation request for inventory may be fulfilled* (Kerr col. 5, lines 17-24; Fig. 2, 42-"Check general availability").

Claim 24:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 21. In addition, Kerr discloses the following limitation:

- *wherein a tier of the plurality of tiers comprises at least one user* (Kerr col. 3, lines 26-30; see also Norrid ¶ 0055 and Table 1).

Claim 25:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 21. In addition, Kerr discloses the following limitation:

- *wherein a tier of the plurality of tiers comprises a grouping of users having similar characteristics* (Kerr col. 3, lines 26-30; see also Norrid ¶ 0055).

Claim 26:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 21. In addition, Norrid discloses the following limitation:

- *wherein the user engine further comprises a travel agent engine and the plurality of tiers are travel agent tiers* (Norrid ¶ 0036 “travel agents”; and ¶ 0055 showing specific special room rates).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of using pricing tiers with the technique assigning users to their particular tier to ensure the ability of “a hotel to maintain its own records of rates” (Norrid ¶ 0026).

Claim 28:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 21. In addition, Norrid discloses the following limitation:

- *wherein the user engine further comprises an other segment engine and the plurality of tiers are other segment tiers* (Norrid ¶ 0055 and Table 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of using pricing tiers with the technique assigning users to their particular tier to ensure the ability of "a hotel to maintain its own records of rates" (Norrid ¶ 0026).

Claim 29:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 21. In addition, Norrid discloses the following limitation:

- *wherein the user engine further comprises a guest engine* (Norrid ¶ 0073).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of using pricing tiers with the technique assigning users to their particular tier to ensure the ability of "a hotel to maintain its own records of rates" (Norrid ¶ 0026).

Claim 30:

See above rejection regarding claims 21 and 10.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr/Walker/Norrid in view of Schiff et al. (US 2003/0004760).

Claim 11:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 8. Regarding the limitation:

- *requiring the member to provide a member login and password in order to access the tier.*

Norrid, in at least ¶ 0077, discloses a password, but does not include a login. However, Schiff, in at least ¶ 0125, discloses both a username and password. It would have been obvious to combine the method of including a password with the technique of including a login in order to ensure proper security for the system.

13. Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr/Walker/Norrid in view of Schiff et al. (US 2003/0004760) in view of Ghouri et al. (US 2002/0082978 A1).

Claim 12:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 8. Regarding the limitation:

- *requiring the member to provide a promotion code in order to access the tier.*

Schiff, in at least ¶ 0155-0156, discloses a promotional rate for a reservation, but does not specifically disclose entering a promotion code. However, Ghouri, in at least ¶ 0064, discloses using a promotion code to gain special access. It would have been obvious to combine the method of pricing reservations with the technique of using promotions and promotion codes in order to gain the increased business provided by promotional pricing with the advantage of ensuring only an exclusive group has access to the special rate.

14. Claims 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr/Walker/Norrid in view of Rabideau et al. (US 2002/0010664 A1).

Claim 27:

Kerr/Walker/Norrid, as shown above, discloses the limitations of claim 21. Regarding the limitation:

- *wherein the user engine further comprises a corporate engine and the plurality of tiers are corporate tiers.*

Norrid, in at least ¶ 0055 discloses group discounts, but does not specifically disclose corporate discounts. However, Rabideau, in at least ¶ 0004, discloses corporate discounts within a reservation system. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of using pricing tiers with the technique assigning users to their particular tier to ensure the ability of "a hotel to maintain its own records of rates" (Norrid ¶ 0026).

Conclusion

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Kevin H. Flynn** whose telephone number is **571.270.3108**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **John W. Hayes** can be reached at **571.272.6708**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

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/Kevin H. Flynn/
Examiner, Art Unit 3628
18 November 2008

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628